

REMARKS

Claims 11-20 are pending in this application and all of these claims have been rejected. The Applicants respectfully request reconsideration of the rejections based on the following remarks.

The Office first alleges that reference to the original application is required on the first page of the specification for any 371 application as "continuing data." The Applicants respectfully disagree. The provisions of 35 U.S.C., 37 CFR and the MPEP do not require such a notation for a National Stage entry under 35 U.S.C. §371(c). (See MPEP §1893.03(c)). Moreover, the PTO mailed a Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 on April 18, 2001 in connection with the present application. Thus, the claim for priority and requirements of 371 have been already met according to PTO records. Accordingly, the specification has not been amended. However, if the Applicants are in error, they invite the Examiner to indicate precisely where this is required under the Patent Laws or the MPEP.

The Office Action also indicated the IDS, which was indeed transmitted with the entry of the present application to the National Stage. Accordingly, the Applicants resubmit with this response a copy of the IDS and 1449 form. Consideration of the references cited in this IDS are respectfully requested.

Claims 11, 13-14, 16 and 18-20 were rejected under 35 U.S.C. §102(b) as being anticipated by *Yamada et al.* (U.S. Patent No. 5,483,666). The Applicants respectfully traverse this rejection for the following reasons.

With respect to independent claims 11 and 20, the Office Action asserts that all of the elements of these claims are met by *Yamada*. However, claim 11, for example, features "evaluating a resultant history of the operating state to determine the operability of the observed radio channel." The cited section of *Yamada* allegedly teaching this feature (i.e., col. 3, ll. 31-41) does not, in fact, teach this element. Rather, this section, and the immediately preceding text in column 3 of *Yamada*, discloses a methodology used when searching channels with a cellular scanner (CS) and, in particular, repeatedly monitoring received strength indicators (RSSI) of channels in a cellular mobile telephone system (CMTS) with the CS. Since a voice channel of the CMTS is transmitted only during speech communication, there is a high possibility of non-

detection. (See col. 3, ll. 36-38). Accordingly, the disclosed methodology proposes simply monitoring for a long period of time to ensure detection. This teaching fails, however, to teach or suggest an evaluation of the history of an actual operating state. Furthermore, this teaching does not teach or suggest determining an operability of the monitored channel based on the evaluated history of the operating state. Thus, the Applicants respectfully submit that *Yamada* does not anticipate claim 11 or claim 20 featuring similar elements to claim 11.

With respect to dependent claims 13-14, 16 and 18-19, these claims are submitted to be allowable on their merits and also due to their ultimate dependency on claim 11.

Claims 12 and 15 were rejected as being unpatentable under 35 U.S.C. §103(a) over *Yamada* as applied to claim 11 and further in view of *Wang*. The Applicants respectfully traverse this rejection and submit that these claims are allowable for at least the reasons presented above with respect to independent claim 11.

Claims 17 was rejected as being unpatentable under 35 U.S.C. §103(a) over *Yamada* as and further in view of *Seheir*. The Applicants respectfully traverse this rejection and submit that this claim is allowable for at least the reasons presented above with respect to independent claim 11.

In light of the foregoing comments, the Applicants respectfully submit that the present application is in condition for allowance and request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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